IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 191 OF 2005

IN

SUIT NO. 916 OF 2004

Prema Patricia Rodrigues
& Ors. .. Plaintiffs.

vs.

Finlay Pius Braganza
& Ors. .. Defendants.

And

Citizen Credit Co-op.
Bank Ltd., .. Applicants.

Ms. Leena Patil for Applicants.
Mr. Anchan i/by B. Amin & Co.
for plaintiffs.
Mr. Bimal Bhabhasa i/by Apex & Co.
for R. No. 3.
Mr. R.V. Bansode for Defendant No.3.

CORAM : S.U.KAMDAR, J.
DATE : 28th MARCH, 2005.

P.C.

1. The present application has been taken out by the Co-operative Bank inter alia on the ground

that the suit property of which the partition is sought is actually mortgaged with them and there is large outstanding amount due and payable to them and notice under the Securitisation Act has been issued by the Applicants. In so far as the prayer for impleading the applicants as party defendant no. 4 is concerned, the said prayer cannot be granted because the suit is for declaration and for partition of the suit property and the applicant is neither necessary nor the proper party to the said suit. However, in so far as their interest in respect of the property is concerned which is mortgaged to them is affected by virtue of the appointment of the Court Receiver by an order dated 16.12.2004 is concerned, the applicant is given an opportunity to take out appropriate proceedings in the suit and seek appropriate order for vacation of the said order dated 16.12.2004 and/or for modification thereof as may be permissible in law. With the aforesaid clarification, the chamber summons is dismissed. There shall be no order as to costs.

2. The learned counsel for the plaintiff states that he has no objection for the property being sold. However, in view of the appointment of the Court Receiver, necessary orders will be obtained by the applicant and, therefore, the aforesaid prayer is rejected.